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**October 24, 2003
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VLF LITIGATION UPDATE

On October 21, 2003, Judge Thomas Cecil of the Sacramento County Superior Court issued a tentative ruling in the lawsuit challenging the restoration of the vehicle license fee to its 1998 levels. The court agreed with the State that the lawsuit filed by the Howard Jarvis Taxpayers Association should be dismissed. *For more, see page 2.*

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FINISHING TOUCHES BEING PUT ON INITIATIVE

Just as "Rome wasn't built in a day," as the saying goes, the same can be said of the initiative measure being prepared by attorneys to the League and the California State Association of Counties. Last week it was reported that it appeared likely the initiative would be filed with the Attorney General within a week. Some last minute comments and recommendations by small panels of city attorneys and county counsel, however, have resulted in further refinements in the document and have delayed finalizing the measure another week or so. *For more, see page 4.*

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A BIT OF DEPARTING IRONY

In his last days of signing and vetoing bills, Governor Davis signed one bill and vetoed another that appeared extremely similar to one another. The only difference was that the bill he vetoed applied to the state, and the bill he signed applied to cities and counties. His reasons behind this? No one knows. *For more, see page 4.*

Hot Bills Act Now

The legislature is in Interim Recess. It will reconvene January 5, 2004.

Want more details on these and other bills? Log on to the League of California Cities Web site at www.cacities.org/legtracking.

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WESTERN CITY MAGAZINE READERSHIP SURVEY RESULTS

Did You Know?

Western City magazine, the League's monthly publication, is provided free to city officials as a membership benefit. It covers policy, process and fiscal issues that affect local government, and focuses on the League's strategic priorities. The magazine is a self-supporting project that pays its expenses with advertising revenue.

Western City conducts a readership survey every three years to "check in" with League members about content. This year's survey revealed:

- About 83 percent of those surveyed are regular readers of *Western City* who have read at least three of the last four issues.

- *Western City* has an average of 3.2 readers per copy.

- The best-read elements in the publication are Job Opportunities, Legal Notes, Everyday Ethics for Local Officials, feature articles and City Forum.

- Topics of greatest interest to readers include fiscal reform/state budget, city finance issues, legal issues for cities, ethics, building public confidence in local government, and employee relations.

Western City also maintains a website (www.westerncity.com) that features an archive of articles, writer's guidelines, an editorial calendar and current job opportunities in local government.

The magazine focuses on a different topical theme each month. City officials interested in writing an article for the magazine should visit the writer's guidelines and editorial calendar sections of the website.

PLEDGES POUR IN AT EAST BAY CITIPAC FUND RAISER

The East Bay Division raised more than \$1,500 for CITIPAC at its last meeting. Contributions came from Council members in Concord, Hayward and Pleasant Hill.

Urged on by League Board member and Pinole Mayor Maria Alegria, Division members from Walnut Creek and Hercules also pledged another \$2,000, making the Oct. 16 the largest collection to date.

The East Bay Division is working to raise \$25,000 by the November Board of Directors' meeting. To date, Division members have raised and received pledges for about half. All but \$1,000 has come from the city family. Alegria, League Past President John Russo and Walnut Creek Mayor Gwen Regalia are chairing the fund-raising drive.

The Oct. 16 meeting was the second meeting in a row where Division members have topped the \$1,500 mark in spontaneous giving.

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The basis of the tentative ruling was that the HJTA and others failed to allege compliance with the legal prerequisites for bringing a tax refund lawsuit. California law requires that a taxpayer take preliminary steps before contesting a fee increase. The taxpayer must first pay the fee, then ask for a refund of the fee, and finally have the refund request denied by the State. Because those filing the lawsuit failed to take these steps, the court dismissed the action.

The HJTA has asked for a court hearing to object to the tentative ruling. The court's decision cannot become final until the hearing is conducted. In the event the tentative ruling to dismiss the lawsuit becomes final, it does not mean that another lawsuit challenging the "pulling" of the VLF trigger cannot be filed at a later date.

The League will continue to work to ensure that local government revenues are protected and is committed to working with the new Administration to resolve this issue.

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CONTRACTING AGENCY BENEFIT FORUM A SUCCESSFUL START

A group comprised of public agency employers, unions, retirees, PERS staff, and members of the PERS Board met for the second time last week during PERS' Educational Forum in San Francisco. The objectives of this group are to understand the changes in health care over time, to find ways to reduce health costs and to devise alternative plans that work for both the contracting agency *and* its bargaining units.

The group discussed trends in the health care market, Blue Shield's pilot program for disease management, and potential strategies for curbing the high rise in health care premiums. It was clearly stated by both the employer community and the union representatives that there was some interest in exploring the possibility of creating a separate pool for contracting agencies under PERS and not grouping us in with the State pool as is the current practice.

The group will continue to explore that option, as well as many others, and present recommendations to the Board by the beginning of 2004. For more information, call Amy Brown at 916-658-8279.

UPDATE ON FY 2004 APPROPRIATIONS

On Tuesday, October 21, the House passed a continuing resolution (CR), which will keep the federal government operating at FY 2003 spending levels through November 7. The Senate is expected to take up the CR next week. During this time the Senate will take action on its unfinished appropriations bills, including Commerce-Justice-State; Transportation-Treasury; VA-HUD; Foreign Operations; Agriculture; and District of Columbia. If the Senate is unable to complete action on the bills separately, there is a strong possibility that several or all of the bills may be wrapped into an omnibus appropriations bill. The House and Senate will then move to conference to reconcile their differences on the legislation.

BREAKFAST MEETING WITH CALPERS BOARD MEMBERS A CHANCE TO VOICE OPINIONS

Members of the CalPERS Board met with public agency representatives to discuss concerns about their pension options and the rising cost of health care under the Public Employees Medical and Hospital Care Act (PEMHCA). The meeting was a chance for agencies to express their frustrations with the increased rise in health premiums, the lack of flexibilities within plans. They also discussed what types of actuarial information is most useful when costing out certain benefits.

Sean Harrigan, President of the Board, facilitated the meeting by encouraging members to give suggestions on what changes the Board needs to make to foster better working relationships with public agency employers. One suggestion was for the Board to reach out to city managers and county administrative officers more often by attending meetings, communicating through emails and phone calls and attending the CalPERS Board meeting. Mr. Harrigan encouraged public agencies to participate more in the Committee meetings: health and benefits/administration and investment. He also suggested that city managers, human resources managers and finance officers invite PERS Board members to attend their meetings.

Please go to the CalPERS website at www.calpers.ca.gov and click on Board of Administration. You will be able to locate their contact information. Feel free to email or call CalPERS Board members and invite them to your next function.

**For more information on this and other
League issues, visit www.cacities.org**

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SB 440 from page 1

SB 440, authored by Senator Pro Tem John Burton is a bill that attempts to overturn the decision of the Supreme Court in *County of Riverside v Superior Court*. That decision held that previous legislation (SB 402) to institute a system of compulsory and binding arbitration on local government was unconstitutional. SB 440 uses the dubious tack that a decision of an arbitrator may be overturned by a unanimous decision of the board of supervisors or city council. This circumvents the courts concern that the original legislation was an unauthorized delegation of local legislative authority. A unanimous decision by a city council is nearly impossible to achieve and we question whether it will survive subsequent legal challenges on the same basis that SB 402 was found unconstitutional. Unfortunately, Governor Davis signed SB 440 anyway, with the reason that it was merely a "technical clean-up" bill that addressed the constitutionality question.

In that same week, Governor Davis vetoed AB 899, which would require the State to enter into a binding arbitration with employees of select state public safety bargaining units. His reasoning behind his veto was that binding arbitration eroded the Department of Personnel Administration's ability to bargain fairly with their unions, and that it would erode the State's authority.

The Governor's veto message closely resembles the League's opposition to binding arbitration, both in SB 402 and SB 440. His veto message is below:

To Members of the California State Assembly:

I am returning Assembly Bill 899 without my signature.

This bill would require the State to enter into a binding arbitration with employees of the California Department of Forestry Firefighters (Collective Bargaining Unit 8) when an impasse has been declared over economic issues.

I am unable to sign this bill because it would erode the authority of the State fiscal and employment policymakers to ensure that the State's policies in these areas are followed. Collective bargaining between the State and employee unions should be left between those two entities and not to an outside arbitrator.

Sincerely,

Gray Davis

INITIATIVE from page 1

None of the refinements have changed the basic thrust of the initiative, which will require voter approval before there are further reductions in city, county and special district property, sales and VLF (or successor) revenues. Similar protections are included for the recently enacted VLF backfill "gap" deferred payments, requiring the property tax backfill payments during the "triple flip", and requiring return of the local sales tax suspended during the term of the "triple flip." Most of the refinements recommended over the last week have concerned the language clarifying the state's existing constitutional duty to reimburse local governments for unfunded mandates.

The League is grateful for the contributions of the city attorneys and county counsel around the state who helped improve the measure significantly. Filing of the final version is imminent, and member cities will be notified immediately of the actual filing and how they can access a copy of the initiative. In addition to city and county legal counsel, an attorney for the California Special District Association (CSDA), another sponsor of the measure, has assisted in the final preparation of the initiative.

For additional information on the ballot initiative visit www.cacities.org/initiative.